

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
v.) NO. 04-30033-MAP
)
PAUL BANNICK)

DEFENDANT'S SENTENCING/DEPARTURE REQUEST

Now comes the defendant and respectfully requests this Honorable Court to sentence the defendant under the Guideline Range of 0 to 6 months. The defendant's request to be categorized as an Offense Level 8 is supported by the defendant's assertion that he is entitled to departures because of both his extraordinary physical impairment and extraordinary level of involvement as his wife's sole caretaker. The defendant's departure issues are summarized at Part E, page 78, of the Presentence Report.

The defendant's position is that he starts at a Total Offense Level 15 (Presentence Report calculates the defendant's Offense Level at 17 at paragraph [298]). The defendant believes a starting Offense Level of 15 is appropriate because the value of the gratuity is between \$30,000.00 and \$70,000.00, which affects Total Offense Level calculation (see defendant's objection to Presentence Report regarding calculation of benefit of gratuity).

The defendant alternatively requests that he be sentenced under Zone B of the Sentencing Guidelines at either Offense Level 9 or 10. Such a sentencing would call for anywhere between 4 and 12 months incarceration but would allow for a sentence of probation that could include home confinement. The defendant states under the extraordinary circumstances above referenced, a non incarceration sentence is appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Mark G. Mastroianni, Esq., do hereby certify that I have served a copy of the foregoing via CM/ECF to Assistant United States Attorney, Kevin O'Regan, United States District Court, 1550 Main Street, Springfield, MA 01103 this 15th day of February 2007.

/s/ Mark G. Mastroianni